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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,510	03/29/2001	Lorin Evan Ullmann	AUS920010165US1	5082

7590 07/11/2005

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EXAMINER

HAN, CLEMENCE S

ART UNIT PAPER NUMBER

2665

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 09/820,510	Applicant(s) ULLMANN ET AL.	
	Examiner Clemence Han	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,32 and 48 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 10, 11, 17, 20, 26, 27, 33, 36, 42 and 43 is/are rejected.
- 7) ☒ Claim(s) 2,3,5-9,12-15,18,19,21-25,28-31,34,35,37-41 and 44-47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claim 1, 4, 10, 17, 20, 26, 33, 36 and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by McKinnon, III et al. (US Pub. 2002/0129143).

Regarding to claim 1, 17 and 33, McKinnon III teaches a method for managing bandwidth within a distributed data processing system, the method comprising: establishing a bandwidth history comprising bandwidth usage data associated with multiple entities within the distributed data processing system, wherein an entity within the distributed data processing system is a user or an application [0073]; and in response to a requested action within the distributed data processing system, predicting bandwidth usage by the requested action [0072].

Regarding to claim 4, 20 and 36, McKinnon III teaches snooping network packets from multiple sources within the distributed data processing system [0065]; filtering the network packets against multiple filter parameters, wherein a filter parameter comprises a user identifier, an application identifier, or an endpoint identifier [0067]; and reporting packet snoop data to be associated with the

requesting entity [0068]; computing bandwidth usage data from the packet snoop data [0065]; and storing bandwidth usage data as the bandwidth history [0073].

Regarding to claim 10, 26 and 42, McKinnon III teaches displaying the predicted bandwidth usage for the requested action to the system administrator [0121].

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 11, 27 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKinnon, III et al. in view of Newberg et al. (US Pub. 2002/0093983).

Regarding to claim 11, 27 and 43, McKinnon III teaches a method for managing bandwidth within a distributed data processing system, the method comprising: establishing a bandwidth history comprising bandwidth usage data associated with multiple entities within the distributed data processing system, wherein an entity within the distributed data processing system is a user or an application [0073]; and in response to a requested action within the distributed data processing system, predicting bandwidth usage by the requested action [0072]. McKinnon III, however, does not teach querying the bandwidth history by the

application that generated the requested action. Newberg teaches querying the bandwidth history by the application that generated the requested action [0037]. It would have been obvious to one skilled in the art to modify McKinnon III to query the bandwidth history by the application as taught by Newberg in order to provide priorities to delay-sensitive data [0039].

Allowable Subject Matter

5. Claim 16, 32 and 48 are allowed.
6. Claim 2, 3, 5-9, 12-15, 18, 19, 21-25, 28-31, 34, 35, 37-41 and 44-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed on February 9, 2005 have been fully considered but they are not persuasive.

In response to pages 26, the applicant argues that McKinnon III does teach the entity being an endpoint but does not teach the entity being a user or an application. McKinnon III teaches the entity being a user [0072].

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. H.
Clemence Han
Examiner
Art Unit 2665


STEVEN NGUYEN
PRIMARY EXAMINER